

**TOWN OF ACTON**

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Zoning Enforcement Officer**INTERDEPARTMENTAL COMMUNICATION**

To: Chairman & Members of the Board
Zoning Board of Appeals

Date: February 5, 2015

From: Scott A. Mutch, Zoning Enforcement Officer & Assistant Planner

Subject: Remand Hearing #12-01
Land Court Case No: 12 MISC 459564(AHS)
348-364 Main Street, Acton, MA
Proposed Construction of New Next Generation Child Care Facility

Location:	348-364 Main Street, Acton, MA 01720
Petitioner:	Walker Realty, LLC., 2 Lan Drive, Westford, MA 01886
Owner:	Walker Realty, LLC., 2 Lan Drive, Westford, MA 01886
Engineer:	Hancock Associates, 315 Elm Street, Marlborough, MA 01752
Zoning:	Residence 2 (R-2) Groundwater Protection District Zone 4
Maximum Floor Area Ratio:	0.10 permitted (0.10 proposed)
Maximum Net Floor Area:	2,500 ft ² permitted (20,260 ft ² proposed – Child Care Facility & Kennedy Facility)
Minimum Open Space:	35% (71,572 ft ²) Required – Not Including Outdoor Play Areas 21% (44,290 ft ²) Proposed
Proposed Use:	Child Care Facility (§ 3.4.6 & § 5.3.9) & Agriculture
Map/Parcel:	F3-32, 33, 54, 61 & 61-1
Hearing Date:	March 2, 2015
Decision Date:	May 31, 2015

The current development proposal identifies a 1-story, 21,290 ft² gross floor area (19,460 ft² - Net Floor Area) child care structure with outdoor play areas for enrolled children, a 200 ft² 1-story shed, a permanent 92-space parking lot for the child care facility with associated landscaping areas; as well as a single story 800 ft² gross floor area (600 ft² Net Floor Area) structure with a 15-space parking lot for the Kennedy agricultural operations.

The Town of Acton's Zoning Bylaw ("Bylaw"), Section 5.3.9 sets forth zoning standards governing child care facilities located in residential districts. The proposed facility does not satisfy all of those standards, as outlined below. Additionally, the proposed site plan as currently designed does not comply with the Parking Standards set forth in Bylaw Section 6.

Section 5.3.9 of the Zoning Bylaw specifically sets forth standards for child care facilities that are located in Residential Districts in addition to those within the general Table of Standard Dimensional Regulations. The zoning violations of the proposed site plan are identified and discussed as follows with the applicable Bylaw sections referenced:

Minimum Open Space not Including Outdoor Play Area – 35% required. The plans currently submitted, propose a 31% Open Space calculation, however, upon closer inspection, this number includes 20,386 square feet of playground area. Therefore, as currently proposed, there is only 21% open space.

There are no landscape plans currently submitted or provided for the proposed project.

Maximum Net Floor Area - 2,500 square feet. The entire proposed child care facility (including the new associated shed structure) indicates a total net floor area of approximately 19,660 square feet, well in excess of the maximum square footage permitted. The Kennedy Landscape Center building (600 square feet) increases the property's total Net Floor Area to 20,260 square feet.

Maximum Floor Area Ratio – 0.10. There are no floor plans or FAR (Floor Area Ratio) drawings currently submitted to document how the proposed Net Floor Area has been calculated or determined. Assuming that this footprint has the same interior arrangement as the 2011 Plan submitted by Walker on this same site, the proposed FAR would be 0.10 (includes the actual child care facility, associated shed and the Kennedy Landscape building).

There are no elevation drawings submitted which identify the proposed building height of the structure. The submitted site plan indicates a 1-story structure which would most likely comply with the 36'-0" maximum building height requirement required under the Table of Standard Dimensional Regulations in the Town's Zoning Bylaw. This requirement can be addressed through the submission of elevation drawings that identify the height of the proposed structure.

In addition to the above, the following are dimensional requirements set forth in Section 6 of the Town's Zoning Bylaw (Parking Standards) with which the proposed project does not appear to comply:

6.3.1.5 – One space per ten (10) children of rated capacity of the child care facility plus one space for each staff person on the largest shift.¹

¹ *The number of parking spaces for a Child Care Facility in a Residential Zoning District shall not exceed the minimum requirement.*

The plans propose a child care facility for 262 children plus 64 staff member on the highest shift, which requires no more than and no less than 91 parking spaces. The currently submitted site plan proposes a total of 107 parking spaces - 92 parking spaces for the child care facility and 15 parking spaces for the Kennedy Landscape Center.

6.7.2 *Set-Backs – Except as may be required elsewhere in this Bylaw, no parking space or other paved surface, other than ACCESS driveways, common driveways or walkways, shall be located within 30 feet of the front LOT line and within 10 feet of the side and rear LOT lines, and notwithstanding the foregoing, no parking space or other paved surface, other than ACCESS driveways, common driveways or walkways, shall be located within the limits of a landscaped buffer area required under Section 10.4.3.5. and Section 10.4.3.6.*

The proposed site plan does not comply with this requirement in the area where Isaac Davis Way intersects the subject property. The subject property is at its narrowest within this area, and the proposed asphalt extends all the way up to the property line with #6 Isaac Davis Way. As set forth within Section 6.7.2, no parking space or paved surface, other than an access driveway, shall be located within 10'-0" of the side and rear lot lines.

Upon close inspection of the proposed site plan, it appears as though an easement may be required to be granted from the abutting property (#6 Isaac Davis Way) in order to allow the parking lot and curbing to cross over the property line as currently depicted on the plans.

6.7.3 - *ACCESS Driveways – Each LOT may have one ACCESS driveway through its FRONTAGE which shall be 24 feet wide, unless, in the opinion of the Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Zoning Enforcement Officer (for other parking areas), a wider and/or greater number of ACCESS driveways is necessary to provide adequate area for safe vehicular turning movements and circulation. An ACCESS driveway for one-way traffic only may be a minimum of 14 feet wide. There shall be no more than one additional ACCESS driveway for each 200 feet of FRONTAGE and all such additional ACCESS driveway(s) shall be at least 200 feet apart on the LOT measured from the centerline of each ACCESS driveway. No driveway for a nonresidential PRINCIPAL USE shall cross land in a residential zoning district in which the PRINCIPAL USE is not allowed.*

There are three (3) access driveways currently proposed to provide vehicular access into the property. Two (2) provide access to the Next Generation Child Care Facility, and one (1) provides access to the relocated Kennedy Landscape Center. All three (3) of the proposed access driveways have dimensions greater than 24'-0" wide at the point where the access drive intersects through the Main Street frontage of the property.

However, the middle proposed access driveway (in line with Isaac Davis Way) does not comply with the 24'-0" minimum width requirement. The currently submitted site plan indicates the access drive has a width of approximately 45'-0" at the Main Street (Route 27) lot frontage, but then is quickly reduced to approximately 20'-0" within the minimum parking area setback requirement. Access Driveways must be 24'-0" in width.

The Special Permit Granting Authority (in this instance the Zoning Board of Appeals) has the authority to waive this requirement and 1) allow for a greater number of access drives than permitted, and 2) access drives with a width wider or smaller than 24'-0", all based upon safety considerations.

Sections 6.7.6 and 6.7.8 set forth requirements for perimeter landscaping. The current submission does not include any landscape plans and, therefore, it cannot be determined whether the proposed development complies with this requirement.

6.7.7 - *Interior Area Landscaping Requirements – A minimum of ten percent (10%) of the interior area, exclusive of perimeter landscaping, of a parking lot cell containing more than twenty-five (25) parking spaces must be planted as landscaped island areas. The landscaped islands shall be so*

located that some portion of every parking space is not more than forty-five (45) feet from either a landscaped island or the perimeter planting area. Landscaped islands shall be dimensioned so that a circle with a minimum radius of 5 feet can be placed at each location within the island except that within the immediate vicinity of driveway or maneuvering aisle roundings and intersections the radius may be reduced to two feet. Curbing, at least five (5) inches in height, shall surround each landscaped island as protection from vehicles. The interior area landscaping requirements shall be in addition to any minimum OPEN SPACE required elsewhere in this Bylaw.

The submitted site plan depicts a parking lot cell located to the left (West) of the middle access driveway into the property which has 26 parking spaces (the plans only number 25 spaces), yet there are no interior landscape islands proposed to comply with Section 6.7.7. Therefore, that parking cell configuration violates the Bylaw.

Other Zoning Concerns Regarding the Proposed Site Plan:

- The far western portion of the property is the proposed location for the septic system as well as the reserve area. The property slopes significantly down towards Route 2 in this area and presumably, the grade would need to be raised to accommodate the septic system. Raising the grade would likely in turn require a retaining wall to be constructed to hold back fill. There are currently no details for or mention of any retaining wall. If a retaining wall were to be necessary, it would be subject to the requirements of Section 5.3.1 for walls located within a minimum front, side or rear yard setback.
- Signage – The submitted site plan proposes two (2) Freestanding Signs. The Zoning Bylaw does not permit signage for businesses located within a residential zoning district. However, it would be reasonable to allow signage in this particular instance as if the property were to be zoning Limited Business. This ideology would permit one (1) freestanding sign by-right, but the 2nd freestanding proposed would require a Special Permit from the Planning Board. Signage is not typically part of this type of Zoning Board of Appeals review and approval.

In addition to the above zoning compliance review, the Planning Department recommends the following:

- Construction of a sidewalk across the proposed development's Main Street (Route 27) frontage which connects with and into the existing sidewalk on the Route 2 bridge. The Town of Acton, and one of the Goals of the Acton 2020 Plan, is to create a much more "walkable" community with more and wider sidewalks, walkways, bikeways and crosswalks. New sidewalks shall be designed to connect with existing sidewalks on adjacent properties in order to accommodate and create a safe environment and efficient movement of pedestrians and bicyclists.
- Installation of MUTCD approved "Do Not Stop" or "Emergency Stopping Only" signs (or equivalent) on Main Street in both directions within the immediate vicinity of the proposed project.
- The proposed Main Street improvements should be subject to engineering peer review to ensure proper lane arrangements, adequate stacking space in the proposed left turn lane, and adequate provisions for pedestrians and bicyclists.